
THE COMPLEAT *K Tithesman*
TYTHES-MAN;

Or, an Exact

TABLE,

Wherein the Nature of TYTHES, and
all Things TYTHABLE are shewn.

With an Account of *Compositions, Transactions, Customs, Prescriptions, and Privileges*, distinguished under their proper Heads.

With References to Adjudged Cases and Statutes relating to TYTHES.

TYTHES are a tenth Part of the Increase yearly arising from the Profits of Lands, Stocks upon Lands, and the Industry of the Parishioners; payable for the Maintenance of the Parish Priest, by every one that hath Things tythable, if a special Exemption cannot be shewn. They were first appointed by *Moses*, to be paid the Sons of *Levi*, of all lawful Things, as appertaining to God.

They are either Predial or Personal.

Predial are those which immediately arise from the Land, either by Manurance, or of its own Nature; as Grain, Hay, Wood, Fruits, Herbs, &c. payable when they arise.

Personal are those which arise only from the Labour and Industry of Man, being the tenth
Part

2 *The Compleat Tything Table.*

Part of his clear Gains in his Trade or Profession; as for Mills, or Fish caught at Sea, payable only by Custom.

These are sometimes mixt; such as those that arise partly from Cattle, and other things that receive their Nourishment immediately from the Ground; and partly by Industry in the Management of them, as Colts, Calves, Pigs, Wool, Lambs, Milk, Cheese, Chickens, Eggs, &c. payable where they arise.

TYTHES, with respect to their Value, are distinguished into  Great and Small.

Great, as Corn, Pulse, Hay, Agistments, Timber, &c. which are generally due to the Rector.

Small, as Seeds of Flax, Millet, Leek, Onion, &c. Herbs, Mint, Rue, Parsley, Cummin, Saffron, &c. Eggs, Fowl, Beasts, Fruits, Underwoods for Fuelling sold, &c. These *Small* are to the Vicar.—But Custom will make a Great Tythe a Small, and the Quantity will turn a Small Tythe into a Great one.

Which TYTHES are required by Composition, Transaction, Custom, Prescription. and Privilege.

Composition, which holdeth or faileth diversely between Clerks themselves, as translating of Tythes from one Church to another holdeth good; but these must be regarded

1. Personal, which does not hold.
2. Predial, which holdeth with the Approbation of the Bishop, and binds the Clerk and his Successors, else only the Clerk.

3. Composition: That Tythes shall be remitted,

ted, does not hold; for Tythe must not be taken away.

4. Between Laymen and Clerks, forepassed, or to come.

Forepassed. This holdeth.

To come. That Tythes be not paid at all is not to be admitted. If the Composition be not wholly paid, but in part, it holdeth; but must be confirmed by supream Authority.

Transaction differs from Composition. Composition is a voluntary Agreement, Transaction is forced of things doubtful, and holdeth, though the Things are temporal, (for the Profit of Tythes are reputed such) and Transactions of Tythes must be respected, according to the Terms. For a limited Time, or for ever.

For a limited, which holdeth with the Bishop's Approbation.

For ever. This holdeth where the Interest of the Church is doubtful; but where Right is clear it does not, otherwise than by Consent of supream Authority.

Custom holdeth or faileth many ways:

1. As in translation of Tythes Predial it holdeth.

2. If of Personal Tythes, (as is said in Composition) it holdeth not.

3. Of not paying Tythes at all holdeth not.

4. Of yielding less than a Tenth holdeth in Personal Tythes, and, in some cases, of Predial also.

5. Of the Places where Tythes ought to be left, it holdeth.

6. Of Tythes to be yielded it holdeth.

7. The Manner and Form of yielding Tythes it holdeth.

Prescription—is only different from Custom in being a Right to many procured in common. Prescription, when privately to one. *Privi-*

4 *The Compleat Tything Table.*

Privilege, or Exemption from Tythes, is derived from supream Authority to persons or Places, Colleges, Manors, Personages appropriate, &c. discharged of Tythes by the Statute, 31 *Hen. chap. 13.*

TYTHES *may be considered as they arise from the Lands by some annual Product.*

Not that Tythe is due if the Occupier has some Profit while the Ground lies fallow for its Improvement, *Dyer* 270. but, if by ill Husbandry, it is otherwise, *Stat. 2 Ed. 6. Goldf. 157.* Also barren Lands improved are free from Tythes for Seven Years, *Stat. 2. Ed. 6.* but not Land gained from the Sea, 3. *Bulst. 156.* nor Marsh Lands drained, *Moor* 430. Yet barren Land, during the seven Years Improvement, pays such Tythes as have been accustomedly paid before, *Wo. Inst. B. 2. c. 2.* A Forest in the King's Hands (tho' in a Parish) is not tythable, but if in the Hands of a Subject, it is, 1 *Roll. Abr. 655. 3 Cro. 94.*

The Produce of Lands tythable are, 1. All Harvest Fruits, &c.

As Wheat, Rye, Barley, Oats, &c. 1 *Syd. 283. 2 Vent. 48.* The Parishioner is to cut it down, and bind in Sheaves, 1 *Roll. Ab. 644. Latch. 125.* The Parson or his Deputy may come and see them set forth, and both to take them away, and that in due Time, or the Parson may be sued as a Trespass, and the Parishioner is not bound to watch them, *Nay* 31.

Cuttings of green Tares, for feeding of Cattle, &c. Grain or Corn sown on Headlands, Peas and Beans eaten in a Man's House, Rak-
ings

The Compleat Tything Table. 5

ings and Stubble, ate not tythable, 1 *Roll.* 379.

Where Corn has grown and paid tythes the same Year, the Lands is not tythable again, 2 *Inst.* 652. Hops pay Tythe by the Pole, and the tenth may be set out before they are dried, but the Poles are not tythable, 1 *Roll. Abr.* 644. Five Shillings must be paid for every Acre sown with Hemp or Flax, before the same be carried off the Ground, *Stat.* 11 & 12. *W.* 3. *c.* 16.

2. *The Herbage of the Field.*

Grass, Hay, Clover, Lucerne, Cinquefoil, &c applied to the feeding of Cattle, are tythable, every tenth Cock, according to the Custom of Places. Grass cut for Sustenance of Cattle, the Owner not having sufficient otherwise, is not tythable, 1 *Roll. Abr.* 644.

Custom is in some Places to make the Grass into Hay for the Tythe, in others in Grass-cocks or Swaths only; but then the Parson may make it into Hay on the same Land, and may go over it, and carry away and break down any Gate or Enclosure erected to obstruct him, *Stat. Ed.* 6. *c.* 13. Custom in some Places to measure out the tenth Part of the Grass, and the Person to mow it, *Hob.* 250. After-month or After-Pasture pay no Tythes, unless by Custom, 2 *Inst.* 621, 652, 1 *Roll. Abr.* 640. *Cro. Ellz.* 662, *Moor* 910. *Poph.* 142. Tythes shall be paid of Grass growing in Orchards, 2 *Inst.* 652. Pasturage for Beasts kept for Plough and Cart or for Pleasure pay no Tythes, 1 *Roll.* 646.

3. *Agistments, or unfructuary Profits of Lands.*

Agistments, *i. e.* feeding of Cattle upon Pasture Lands, &c. Tythes are due if the Land
pays

6 *The Compleat Tything Table.*

pays no other that Year, *Danv.* 600. and the Cattle must be agisted for Hire or Sale, and not fed for Plough, Pail or Labour, they being otherwise profitable to the Parson, *Winch.* 33. *Moor* 909. If Land is let to a Stranger by the Year, a tenth part of the money is due, *Hard.* 35. Otherwise, respect is to be had to the Number of Cattle, and their Time of feeding. If the owner eats it all with unprofitable Cattle, the tenth Part of the Value is payable; though Custom or Prescription may direct other kinds of Payment. —Tythes shall not be paid for young Cattle bred for the Plough or Pail, *Moor* 910. If Cattle are taken for Hire, either the Owner or Occupier may be sued, *Dan.* 614. If Tythes are paid for Wool, the Sheep shall not pay for their Herbage, 2 *Bulst.* 258. Oxen or Steers kept for Sale pay Tythes for their Pasture, but not Wethers, because they render Tythe of their Wool, *Cro. Car.* 237 And if Cows yield Milk their Pasturage is not tythable, *W. Inst. B.* 2. c. 2.

4. *Timber Trees and Underwoods, with Fruit.*

Timber Trees, Oak, Ash, Elm, &c. are not tythable, nor Trees growing in Parks, Forests, Chafes; and the Branches, with the Shoots and Bark, are discharged with the Bodies, 1 *Co.* 49. when they are of twenty Years Growth, otherwise Loppings are tythable, 11 *Rep.* 48. 2. *Inst.* 643. nor Fruit Trees, 2. *Roll.* 83. nor Aspin, Beech, Hazle, Holly, Willow, Maple, &c. where used for building, 45 *Ed.* 3. 32. *Dan.* 89. But Birch is tythable, tho' of twenty Years Growth, because it is not proper for building, 2 *Inst.* 643. 1 *Cro.* 1. Old decayed Trees having been once privileged, are exempted from Tythes, tho' cut down for Fire, 1 *Rep.* 49. 81. 2 *Inst.* 643. Pollards

The Compleat Tything Table. 7

Pollards of 50 Years Growth, when fell'd, are tythable, 1 *Lev.* 1. 89. Nurseries are tythable if the Owner pulls them up; but if sold standing, and the Vendee pulls them up, he shall pay the Tythe, *Danv.* 585, 614.

Underwoods; Tythes are generally due if sold standing, payable by the Buyer if fell'd by the Seller, 1 *Inst.* 642. In like manner Broom and Furze, 1 *Dan.* 597. but are not tythable where used for House-boot, Hedge-boot, Cart-boot, *Goldf.* 151. Alders are tythable tho' above twenty Years Growth, 2 *Gro.* 199. Fruits from Oak, Beech, &c. as Acorns Mast, if they drop from the Tree, and Swine eat them, they pay no Tythe, but if severed from feeding of Swine, they do, *Hetly* 27. or if gathered and sold, 11 *Co.* 49. 2 *Inst.* 643. Apples, Pears, Plumbs, &c. in Enclosures, gathered for Sale, pay Tythes in Kind; and if sold on the Tree, the Vendee must pay the Tythe, 2 *Inst.* 652.

5. Mines, and what is dug out of the Earth.

Mines of Silver, Copper, Tin, Lead, &c. are not tythable of common Right, but in some Places Custom has allowed them, 2 *Inst.* 651, Chalk, Clay, Coals, Turf, Peat, Fuller-earth, &c. are tythable, 1 *Roll.* 366. nor Stone, Brick, Tiles, &c. because they are made of the Substance of the Earth, and no annual Encrease, 2 *Inst.* 651. 1 *Cro.* 1. for it is a Rule, where there is no yearly renewing, no Tythe is due, 11 *Co.* 160. No Tythe shall be paid for Salt, unless by Custom, 1 *Lev.* 179.

6. Garden Herbs, Seeds, Roots, &c.

Tythes are due for all Pot-herbs, Saffron, Annis, Cumin, Potatoes, Turnips, Carrots, Parsnips,

8 *The Compleat Tything Table.*

Parfnips, Onions, &c. and of Flowers, *Hut.* 77.
3 *Cro.* 20.

7. *Eggs, young Fowls, Calves, Lambs, Pigs, &c.*

Tythes of Ducklings and Geese are usually paid in Kind; but of Hens and Turkies, most commonly in their Eggs, as Custom guides, *Moor* 599. No Tythes of Swans, Turkies, Pheasants, Partridges, &c. for them or their Eggs, are due by Right, they being wild by Nature, unless by Custom, 2 *Mod.* 77. *Roll.* 458. but if Tythe is paid for the Young, there shall be none for the Eggs, or if for the Eggs, none for the Young. No Tythe is due for Pidgeons consumed in a Man's House, *Rolls. Abr. Title. Dismf. Litt. Rep.* 40. *Hett.* 147. but if kept in a Dove-house, they are tythable, 1 *Vent.* 5.

If a Person has ten Calves, Colts, Lambs, &c. in one Year, Tythe is payable; but if he has fewer than ten, none in Kind is to be paid for that Year, except Custom warrants it; but in such Cases there is usually a Rate-Tythe, or the Parson carries till next Year, they are payable when weanable, *Raym.* 277. Kids are tythable as Calves. *W. Inst. B. 2. c. 2.*

8. *Milk, Butter, and Cheese.*

Milk is to be paid every tenth Meal, and carried either to the Vicar's House or Church Porch, according to the Custom of the Place, *Raym.* 277. Cheese is only tythable where Tythe is not paid for Milk, and is due only by Custom, *W. Inst. B. 2. c. 2.* 1 *Cro.* 109. A Number of Cheeses may discharge the Milk; for no Tythe for Cheese or Butter is due of itself, being made by Labour, *Moor* 909.

9. Wool and Skins.

Sheep and Lambs are tythable proportionably to the Time fed in a Parish, *to wit*, Eight Pounds in Eighty if a Year, Four for Half, Three if a Quarter, and the Twelfth Part if a Month, and nothing for less than 30 Days. By Custom it may be paid at *Lammass Day*, tho' due at Sheering-time, *Moor* 910. If shorne and dye before *Easter* following, no Tythes are due, *Poph.* 197. Nor for Sheep that feed after the Corn is reaped, *1 Mod.* 216. Sheerings of Sheep to preserve them in their Walks from Brambles and Vermin, are not tythable, *3 Bulst.* 242. If the Owner kills his Sheep, he must pay Tythe for the Wool, but not for the Skin, *Litt.* 31. nor of Pelts or Fells of Sheep which die of the Rot, *Nels. Abr.* 318.

10. Of Beasts and Fowls wild by Nature, and of Fish.

No Tythes are due for Deer, Hare, Conies, Wild-fowls, or Fish taken out of the Sea; but by Custom they may, *Cro. Car.* 192. *Noy* 108. as of Herrings at *Yarmouth*, *Palm.* 527. and a Custom to pay less than a tenth Part may be good, *1 Lev.* 179. *Syd.* 278. *1 Roll.* 419. *3 Bulst.* 241. Trouts taken in a River adjudged tythable by *Stat.* 2. *Ed.* 6. *Mich.* 15 *Car.* 3. *Nels. Abr.* 311. Fish in Ponds and Rivers enclosed are tythable in Kind, *Winst. B.* 2. c. 2.

11. Houses.

No Tythe by Right is payable for them, but by Custom, except in the City of *London*, *Moduses* being for what increaseth; now Houses decrease,

10 *The Compleat Tything Table.*

crease, and are Inheritances, and it is a Rule no Tythe shall be paid for Inheritances, nor can Husbandry be exercised without Houses. Noblemen are exempted by *Stat. 38 Hen. 8.*

12. *Mills and improved Rents.*

All Corn-Mills not erected before *Stat. 9. Ed. 2.* are tythable; but if before the Memory of Man, the Law presumes them to be before the Statute: Yet if one pays Tythe for his Corn, and after grinds the same at a Mill in the same Parish, no Tythe is to be paid for the Meal, 2 *Inst.* 652. Fulling Mills, Tin-Mills, Plate-Mills, Rag and Paper-Mills, are not tythable, because the Profits arises from the Labour of Men, 2 *Roll.* 84. Modus to pay two Shillings in the Pound of all the improved Rent, in lieu of all Tythes, is not good, because it is to rise and fall as the Land is let, and the Parson may not know it, 2 *Salk.* 657.

4 AP 54

13. *Bees.*

Honey and Wax is tythable by the tenth Measure, 3 *Cro.* 404, 559. *W. Jones* 447.

14. *Profits made by Tradesmen, Artificers, &c.*

All these Tythes may be included under Free-will Offerings, tho' the *Stat. 2 & 3 Ed. 6. 13. S. 7 & 8.* says all Persons shall pay their Offerings (or Tythes which was intended) of honest Labour, but not of Robbers, Usurers, Harlots, &c. but all Personal Tythes are more intricate than profitable, therefore the Clergy are advised to desist from contending for them.